

**California Energy Commission  
Public Benefits Program**

**Staff Discussion Paper  
Proposing Specific Administrative Structure Options  
Prepared for the Assembly Bill 1105 Staff Workshop  
Scheduled on October 1, 1999**

**Energy Commission Publication No. P400-99-010**

In support of the mandate contained in Assembly Bill 1105, the following staff paper was written to supplement the staff paper, "Staff Discussion Paper Regarding Administrative Structure Issues". This previous paper, posted on the Energy Commission's Web Site on September 23, 1999, discussed the framework and principles used to consider available administrative structure alternatives for the Public Benefits Program. This supplemental paper proposes and compares two specific and concrete administrative options for the Public Benefits Program.

This paper is organized into the following sections:

- I. Introduction
- II. Initial Proposal for Option B: California Energy Commission Sets Policy and Overall Budget for Newly-Created Non-Profit Program Manager(s)
  - Figure 1: Option B-1 Structure and Feedback Channels
  - Table 1: Functions and Roles for Option B-1
- III. Initial Proposal for Option C: California Energy Commission Oversees Program Managers
  - Figure 2: Option C-1 Structure and Feedback Channels
  - Table 2: Functions and Roles for Option C-1

You are invited to the October 1, 1999 staff workshop to discuss the issues and proposed options detailed in both papers.

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# **SUPPLEMENTAL STAFF DISCUSSION PAPER PROPOSING SPECIFIC ADMINISTRATIVE OPTIONS**

September 29, 1999

**Prepared For the A.B. 1105 Staff Workshop  
Scheduled On October 1, 1999**

## **I. INTRODUCTION**

The “Staff Discussion Paper Regarding Administrative Structure Issues” posted on the Energy Commission’s web site on September 23 discussed certain evaluation principles, administrative functions and three rather general types of organization options for administering California’s Public Goods Charge energy efficiency programs in 2002 and beyond.

This supplemental paper was written to flesh out some details of how the proposed options B and C in the original paper might work. These fleshed out options are labeled B-1 and C-1. A more detailed proposal for Option A is not included here because this option is somewhat more straightforward than the options B and C.

In this supplement, Option B-1 includes the use of one non-profit program manager who would be responsible for portfolio management of all of the programs and hiring its own sub-contractors to manage and deliver specific programs in different market segments. In option C-1, the California Energy Commission would select a possible combination of for-profit or on-profit program managers hired through a streamlined contracting process.

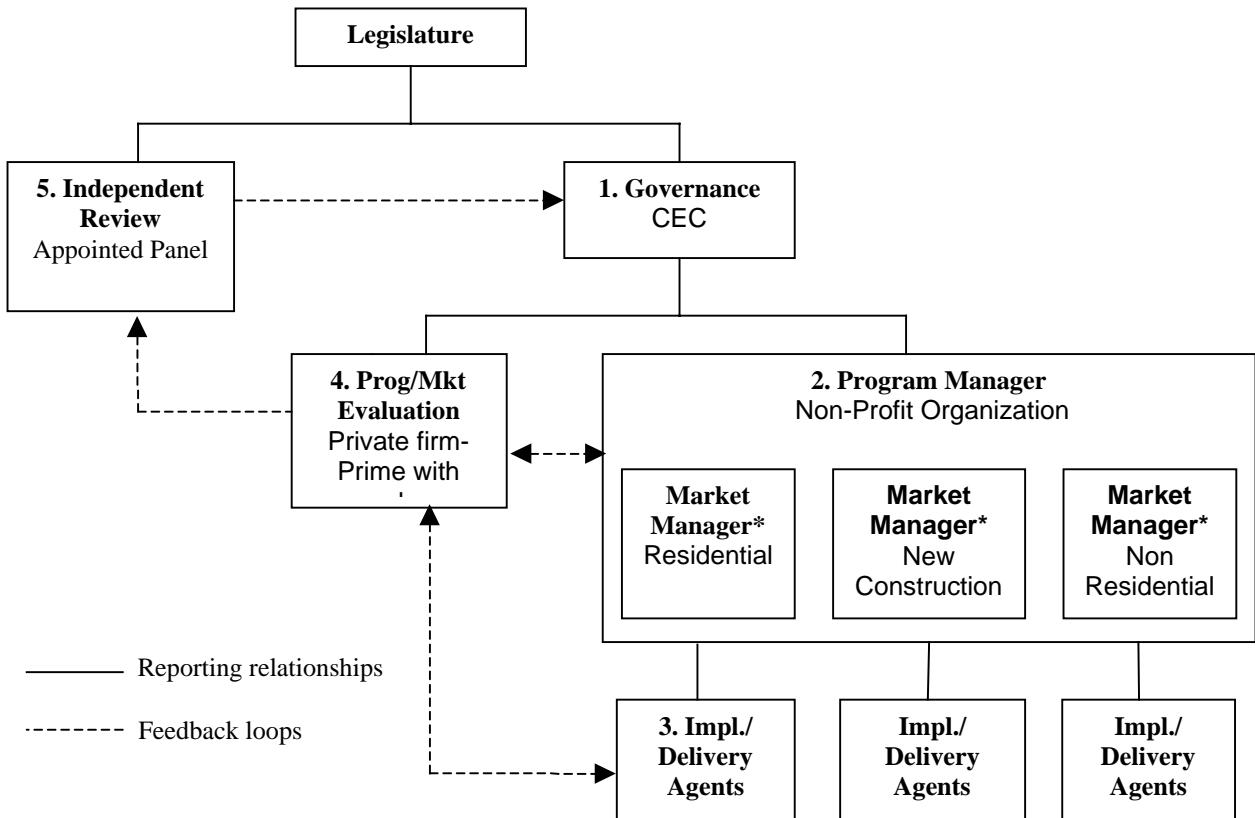
## **II. INITIAL PROPOSAL FOR OPTION B: CALIFORNIA ENERGY COMMISSION SETS POLICY AND OVERALL BUDGET FOR NEWLY-CREATED NON- PROFIT PROGRAM MANAGER(S)**

Figure 1 shows the basic structure for Option B-1 which consists of five basic functions: governance, program management, implementation/delivery, market evaluation, and independent review of the entire structure.

### **Summary of How Option B-1 Might Work**

In Option B-1, the Legislature would set broad program goals and overall Public Goods Charge budget in mid-year 2000. Enabling legislation would authorize the Energy Commission to create a new non-profit organization (or hire an existing one) by appointing a board, providing start-up funding to hire staff, and approving its charter. This new non-profit organization would then hire program managers for two to four market segments. These program managers would have authority to design programs and hire program delivery agents and evaluation staff subject to the approval of the non-profit program manager, who would be responsible for exercising high level management of the portfolio of programs.

**Figure 1. Option B-1 Structure and Feedback Channels**



\* Mkt managers are hired staff or contractors of the non-profit at their discretion. Market divisions provided as examples only.

The Energy Commission would have governance responsibility for setting the initial policy and budgets for the non-profit portfolio manager and the next level of programs manager, and a separate budget for the program evaluation functions. The non-profit manager would then develop program level budgets needed to hire program managers to develop program designs within a public process and hire delivery agents/implementers. The non-profit program manager would have the authority to hire one or more sub-program managers if desired and all program delivery agents (e.g. implementers). Legislature would set the budget for the independent review function, which would be funded by a small annual budget of perhaps \$500,000.

A biennial proceeding would be used by Energy Commission to set policy goals and review overall program budgets submitted by the program manager for each targeted market segment. Budgets would be modified every two years based upon feedback from non-profit portfolio manager, program evaluation staff and program managers. The first decision on program policy goals could be available as early as September of 2000. This decision would also include a draft charter for the non-profit and nominations for its board. The charter would include a description

of the proposed market segmentation for program managers and how they would be expected to interact with existing Energy Commission program staff and coordinate with the Public Interest Energy Research (PIER) and Renewable Programs. The non-profit organization would need to be staffed and program managers hired between September of 2000 and June 30 of 2001. Program managers would then develop program designs and budgets in the fall of the year 2000 through a public process with input from Energy Commission staff, evaluators, and independent panel (once operational). Final decision on program budgets for calendar year 2002 would be needed in the first two months of 2001. These final program plans would be filed with the Energy Commission and sent to the program evaluation organizations for use in developing Market Assessment and Evaluation plans.

Market and program level evaluations would be performed on a biennial basis and sent to governance organization and program managers. The independent panel acts as an independent check on governance and program manager organizations (to ensure program funding and management decisions are independently reviewed). The independent panel would be responsible for developing a biennial evaluation of the entire administrative structure and recommend improvements to the Legislature and governance organization.

Table 1 describes the functions, roles and possible candidates for these roles. The columns in this table provide more detail on the principal duties to be performed by the organization responsible for each function and whom each function would be accountable to in terms of both budgetary authority and accountability. The table also provides an indication of what types of procurement processes would be used to select and hire the organizations responsible for each function.

**TABLE 1**  
**Functions and Roles for Option B-1:**  
**California Energy Commission (CEC) Sets Policy and Overall Budget**  
**for Non-profit Program manager(s)**

Function	Lead Organization	Principle Duties	Accountable to Whom	Contract Management/ Dollar flow	
				Budgeting	Procurement
1. Governance	CEC	<input type="checkbox"/> Set state policy goals for programs <input type="checkbox"/> Approve Program budgets submitted by function 2 and approve overall budgets for functions 2,3, and 4	<input type="checkbox"/> Legislature <input type="checkbox"/> Independent Review Panel	Annual budget approved by Legislature	Authority from Legislature to adopt budgets for each of the five functions except independent review
2. Program Management	Non-profit Organization (s)	<input type="checkbox"/> Design Portfolio of Programs <input type="checkbox"/> Submit Program Budgets <input type="checkbox"/> Modify program designs based on feedback from functions 4 and 5 and new policy from function 1 <input type="checkbox"/> Hire program managers	<input type="checkbox"/> CEC	Annual Total Program budget sum of 2&3 approved by CEC but allocated to programs/markets by non-profit.	Non-profit set up through legislation or by CEC - writes contract with program market managers or hires staff to write contracts with delivery agents
3. Implementation/Delivery	Private market actors, and Utility Distribution companies	<input type="checkbox"/> Implement Programs and Track program progress	<input type="checkbox"/> Program Managers	Program manager sets budgets and selects contractors as needed	Exempt from state procurement practices
4. Program and Market Evaluation	Contractors hired by Program managers; Limited role for CEC staff	<input type="checkbox"/> Evaluate impacts of all programs in markets <input type="checkbox"/> Evaluate effectiveness of portfolios	<input type="checkbox"/> Program Managers first, work also with Independent Panel and CEC	Annual budget set by CEC in consultation with program managers; CEC contracts for either single MA&E program manager or multiple firms	Hired by CEC using current contracting processes
5. Independent Review	Private panel composed of public interest reps and stakeholders appointed by CEC and Legislature	<input type="checkbox"/> Provide Policy and Management Audit of Entire Structure every two years	<input type="checkbox"/> Legislature <input type="checkbox"/> Works with program and market evaluation organizations	Budget set by Legislature	Contractors or staff hired through state procurement

## **Comparison of the Option B-1 Structure with the Current Governance and Administrative Structure**

1. In Option B-1, program evaluators would be directly accountable to the governance structure by contract, as opposed to the current system where program evaluators are hired by and work for the program managers. This separation would be useful given the conflicts that can arise between committed program managers and skeptical policy makers.
2. In Option B-1, there would be an independent panel of market experts or participants that would be responsible for performing an independent evaluation of how well the entire governance and administrative structure performs vis-a-vis the policy goals set by the Legislature. This separation would provide the governance body and the Legislature with a fresh and independent perspective on how well the entire structure is functioning absent the pressure from traditional stakeholders with a strong interest in program funding decisions.
3. In Option B-1, a new non-profit organization would have responsibility for hiring market or program managers to meet the policy goals set by the governance structure, as opposed to the current system of utility administration. This organization would be expected to work closely with the Energy Commission to develop program manager and delivery budgets consistent with their policies, but would also serve the valuable function of relieving the Energy Commission of the administrative burden of managing all of the program design and delivery contracts and hiring of program delivery staff using the state procurement process.
4. In option B-1 the utility distribution companies would be asked to collect public goods charge funds and transfer them to the governing body on a regular basis, rather than keeping the funds in their own account and spending them on program management, administration and evaluation.
5. The utilities have a significant amount of expertise that should not be lost by precluding them from bidding for certain functions. In particular their access to customers and reputation in some markets as a credible and trusted actor should not be ignored. In Option B-1, the utilities could be eligible to perform the program management, implementation/delivery and/or program evaluation roles. The governance structure would need to decide on a case by case basis if there are any conflicts if utilities were to perform two or more of these roles simultaneously.

## **Pros and Cons of Option B-1**

### Advantages

- Utilizes an existing agency to provide governance, and contract management for program evaluation functions, thereby taking advantage of existing expertise, minimizing start-up delays, and assuring that key program functions are well integrated.
- Utilizes a new non-profit administration to develop program designs, select delivery agents and manage a portfolio of programs. Non-profit could be composed of former personnel from

existing utility administrators and energy service companies. Non-profit advantages include the ability to manage programs to meet public policy goals without conflicts of interest and the ability to move funds quickly from non-performing program ideas to successful ones without the potential for lengthy delays in the state process.

- A non-profit organization will have the ability to specialize in the energy efficiency market and potentially to hire a higher quality and more flexible staff than alternative program managers. The non-profit would have the discretion to decide to hire its own staff as program managers or choose to contract for different organizations to manage programs in discrete market segments such as the residential new construction market.
- Utilizes private entities for implementation and delivery functions, thereby capturing the efficiencies and effectiveness of the private sector while avoiding any real or perceived “conflict of interest” which might result if utilities were involved.
- Utilizes separate entities for different aspects of the independent program review, thereby assuring that the policy and fiscal reviews are handled by entities with appropriate expertise.
- Limits government agency role to the essential functions of governance and oversight of public funds.
- Utilizes a single private entity for independent program review, thereby potentially minimizing overhead costs for this function, while ensuring that the policy and fiscal reviews are well integrated.
- Creates structural “checks and balances” by allowing different entities to play different functional roles.

#### Disadvantages:

- Severs “purse strings” from the governing entity, thereby weakening the connection between the policy and management functions.
- Requires creation of a new non-profit organization, thereby causing potential delays in “start-up” and other significant costs associated with creating a new government entity. This risk of delay may be too high given the previous failure to create a new non-profit entity under the stewardship of the California Public Utilities Commission.
- Relies extensively on an untested non-profit organization to hire competent staff and manage energy efficiency programs without much proven experience in energy efficiency markets.
- Assumes a non-profit organization will have more flexibility in hiring staff and procuring delivery agents than for-profit organizations or state agencies because of special status granted in legislation, which may not actually be true.

- Separation of Market and Program Evaluation functions from Program Management may make it more difficult to integrate evaluation results into program design and budgeting decisions.

### **III. INITIAL PROPOSAL FOR OPTION C: CALIFORNIA ENERGY COMMISSION OVERSEES PROGRAM MANAGERS**

Figure 2 shows the basic structure for Option C-1. There are five separate functions: governance and oversight, program management, program evaluation, program delivery agents and independent review.

In Option C-1, a biennial proceeding would be used by the Energy Commission to set policy goals and overall program budgets for each targeted market segment based upon feedback from program evaluation staff and program managers. The first decision would be out in February of 2001. Program managers would develop program designs through a public process with input from Energy Commission staff, evaluators, and the independent panel. Final program plans would be filed with the Energy Commission and sent to market evaluation organizations for use in developing Market Assessment and Evaluation plans. Market evaluations would be performed on a biennial basis and sent to governance organization and program managers. The independent panel would act as an independent check on governance organization (to avoid program capture by stakeholders). This body would develop a biennial evaluation of the entire administrative structure and recommend improvements to the Legislature and governance organization.

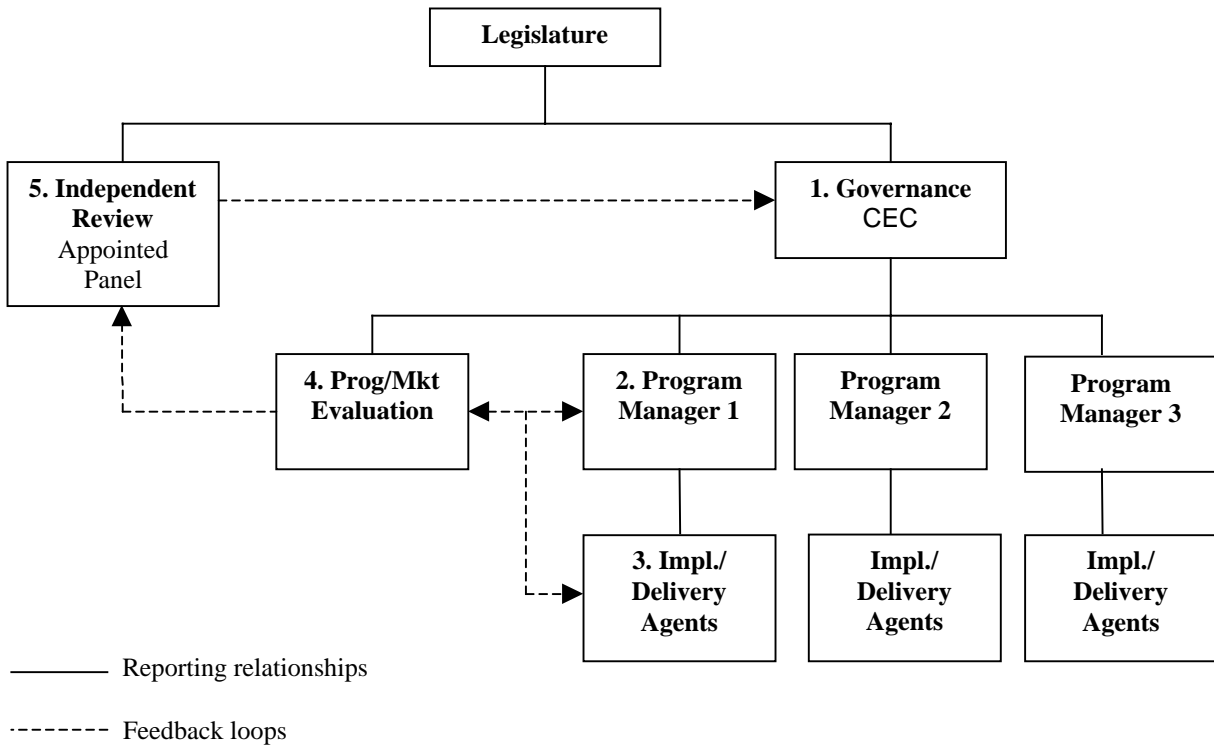
Table 2 provides more details on the principal duties for each function and the candidate organizations for each function.

#### **Summary of How Option C-1 might work**

Option C-1 is similar to Option B-1, except that a combination of several program managers replace the single non-profit organization, and a variety of types of entities are eligible to compete for the job of program manager. In Option C-1, the Legislature would set broad program goals and overall Public Goods Charge budget in mid-year 2000. Enabling Legislation would authorize streamlined state procurement procedures for the Energy Commission to hire program managers and program evaluation contractors. The Energy Commission could also assume a limited amount of program management functions in niche markets such as new construction. The Energy Commission would set initial policy and budgets for each of the remaining four functions except the independent review function, which would be funded by a small annual budget, perhaps \$500,000.



**Figure 2. Option C-1 Structure and Feedback Channels**



**TABLE 2**  
**Functions and Roles for Option C-1**  
**California Energy Commission (CEC) Oversees Program Managers**

Function	Lead Organization	Principle Duties	Accountable to Whom	Contract Management/ Dollar flow	
				Budgeting	Procurement
1. Governance	CEC	<input type="checkbox"/> Set state policy goals for programs <input type="checkbox"/> Hire program managers <input type="checkbox"/> Approve Program budgets submitted by function 2 and approve overall budgets for functions 2,3, and 4	<input type="checkbox"/> Legislature <input type="checkbox"/> Independent Review Panel	CEC approves multi-year program budgets (on staggered terms for individual market portfolios)	Authority from Legislature to streamline procurement procedures and adopt budgets for each of the five functions except independent review
2. Program Management	Combination of 3-8 for-profit and non-profit organizations—could include: <input type="checkbox"/> Private firms <input type="checkbox"/> Non-profits <input type="checkbox"/> Utilities <input type="checkbox"/> Universities <input type="checkbox"/> Local governments <input type="checkbox"/> CEC Staff	<input type="checkbox"/> Propose specific market objectives <input type="checkbox"/> Design portfolio of programs <input type="checkbox"/> Submit program Budgets <input type="checkbox"/> Hire implementors <input type="checkbox"/> Solicit 3 <sup>rd</sup> party program ideas <input type="checkbox"/> Manage program portfolio and modify program designs based on feedback from functions 4 and 5 and new policy from function 1	<input type="checkbox"/> CEC	Annual Total Program budget sum of 2,3&4 approved by CEC but allocated to programs/markets and evaluation function by non-profit.	Program managers exempt from state procurement practices
3. Implementation/Delivery	<input type="checkbox"/> Private market actors <input type="checkbox"/> Utilities for limited areas <input type="checkbox"/> Local governments	<input type="checkbox"/> Implement Programs and track program progress	<input type="checkbox"/> Program Managers	Program manager sets budgets and selects contractors as needed	Exempt from state procurement practices
4. Program and Market Evaluation	<input type="checkbox"/> Contractors hired by CEC <input type="checkbox"/> CEC staff	<input type="checkbox"/> Evaluate impacts of all programs in markets <input type="checkbox"/> Evaluate effectiveness of portfolios	<input type="checkbox"/> CEC and Independent Panel	Annual budget set by Program Manager	Exempt from state procurement practices
5. Independent Review	<input type="checkbox"/> Private panel composed of stakeholders appointed by CEC and Legislature <input type="checkbox"/> DOF (fiscal)	<input type="checkbox"/> Provide Policy and Management Audit of Entire Structure every two years <input type="checkbox"/> Provide fiscal audit/evaluation	<input type="checkbox"/> Legislature works with program and market evaluation organizations	Budget set by Legislature	Contractors or staff hired through state procurement

## **Comparison of this Structure to the Current Governance and Administrative Structure:**

1. In Option C-1 the hired program managers would report directly to the governance agency and would hire their own subcontractors and delivery agents as needed to perform necessary functions. Option C-1 allows for different categorizations of markets for which anywhere from three to eight program managers could be hired to administer.
2. A variety of organization types would be eligible to compete for the job of program manager, similar to the proposed structure outlined in the Public Utility Commission's Administrator Request for Proposal (RFP) that was released and then cancelled in the fall of 1998. Notably, existing non-profit organizations, local governments and utilities could also compete for program manager roles. As stated earlier, conflict of interest issues would need to be considered for the utilities on a case by case basis.
3. In the current structure, utilities perform some program implementation functions. In order to encourage interactions between customers and private companies, the utility roles in implementation may be limited to activities that do not involve direct customer contact, such as mass marketing and education.
4. As in Option B-1, program evaluators would be directly accountable to the governance structure by contract, as opposed to the current system where program evaluators are hired by and work for the program managers.
5. As in Option B-1, there would be an independent panel of market experts or participants that would be responsible for performing an independent evaluation of how well the entire governance and administrative structure performs vis-a-vis the policy goals set by the Legislature.

## **Functions Open to Bids from the Existing Program Administrators**

Existing utility administrators would be eligible to compete for the jobs of program management, limited implementation/delivery and/or program evaluation roles. The governance structure would need to decide if there are any conflicts for utility distribution companies or other firms that sought to perform two or more of these roles simultaneously on a case by case basis.

## **Pros and Cons of Option C-1**

### Advantages

- Utilizes the Energy Commission to provide governance and overall responsibility for processing program management and evaluation contracts, thereby taking advantage of existing expertise, eliminating delays that would be associated with creating a new organization, and assuring that key program functions are well integrated.

- Multiple program manager-types increase the ability to match program manager experience in specific markets with desired organizational form and market reach.
- Balances pros and cons of private and non-profit program managers.
- Mix of profit and non-profit program managers could bring in more public comment and participation.
- Utilizes private entities primarily for implementation and delivery functions, thereby capturing the efficiencies and effectiveness of the private sector and preparing these participants for carrying forth desired activities after a market is transformed.
- Allows for the possibility to leverage the utilities' experience, market connections and consumer brand awareness.
- Allows for a blending of expertise and resources of private firms and Energy Commission evaluation staff for market assessment and evaluation.

### Disadvantages

- Process of managing local governments and other non-profit program managers may be significantly different than managing for-profit contractors (different types of contracts, interagency agreements, etc). Developing contracts or interagency agreements with non-profit organizations may take more time and entail more risks.
- May be more difficult to get for-profit and non-profit program managers to integrate programs because of different financial motives or organizational cultures.
- Could be additional start-up costs if both the non-profit and for-profit program managers hired by the new governance structure face different types of learning curves/costs.
- Managing three to eight program manager contracts and performing some program evaluation work may require augmenting Energy Commission staff.
- Some parties perceive that the Energy Commission may not be capable of managing over \$200 million in the existing state procurement processes.
- It may be hard to draw the line between the Energy Commission staff managing the program managers versus becoming involved in managing the details of the program design and delivery system.